

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13155 of Jericho Baptist Church, Inc., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Section 3101) to use all floors of the subject premises as a rooming and boarding house for the elderly consisting of six persons in an R-1-B District at the premises 4420 Douglas Street, N. E., (Square 5116, Lot 126).

HEARING DATE: February 20, 1980

DECISIONS DATE: March 5, 1980

FINDINGS OF FACT:

1. The subject property is located on the north side of Douglas Street, west of Kenilworth Avenue. It is known as 4420 Douglas Street, N. E. and is in an R-1-B District.

2. The subject site is rectangular in shape and is approximately 5,250 sq. ft. in area. It is improved with a two story single family detached house that has been renovated recently.

3. The first floor of the subject premises includes a living room, dining room, kitchen and an office. The second floor contains four bedrooms and two bathrooms. There is a full basement.

4. It is proposed that the subject property will be used as a residence for six elderly persons. The staff will consist of a director and her assistant and volunteers. The facility will operate twenty-four hours a day.

5. The applicant, Jericho Baptist Church, will operate the facility. The Church is directly across the street from the subject property. The improvement was recently purchased by the applicant. It had formerly been used as a residence.

6. The facility proposes to afford services including room and board, assistance with personal hygiene, medication and organized programs. Each resident pays his own fee.

7. There are presently two residents in the subject improvement.

8. The Office of Planning and Development by report dated February 28, 1980 recommended that the Board of Zoning Adjustment defer a decision on the application until the Zoning Commission takes final action on the Zoning Commission Case No. 78-12 which case concerns itself with the Community Based Residential Facility Text Amendment. The OPD reported that the proposed function of the facility exceeds the normal function of a rooming and boarding house in that the activities will be coordinated and supervised and will include convalescent care. The proposed function of the facility falls under the category of a Community Residence Facility as defined under the proposed text amendment presently under consideration by the Zoning Commission in Case 78-12. The OPD further noted that the subject facility is listed on the Mayor's Strike Force list of potential Community Residence Facilities privately operated and subject to licensing requirements of the Community Residence Facilities Act of 1977. This strike force is the outgrowth of the city's attempt to identify all CRF's and determine their compliance with applicable city codes and licensing regulations. The strike force completed its work as of January 31, 1980. Analysis of the inspections conducted by the Strike Force identified a large number of facilities which are presently non-conforming and would require a use variance to continue the operation. The Board appreciates the concerns of the OPD but does not concur that the decision on the application should be postponed indefinitely. The Board finds that the evidence is sufficient in this particular application to make a decision on this application. The BZA is authorized by the Regulations to decide a case based on the regulations in effect on the date of the decision.

9. The Board notes that the subject proposal does not meet the definition of a personal care home as defined in the Zoning Regulations since a personal care home is limited to not more than four persons. A rooming and boarding house is first permitted as a matter-of-right in the R-4 District.

10. Section 8207.11 of the Zoning Regulations list specific findings which must be shown in order to support the grant of a use variance. There must be a showing of hardship upon the owner of the property due to reasons relating to peculiar physical characteristic of the site and a showing that the variance if approved would not cause substantial detriment to the public good.

11. There was no opposition to the application.

12. ANC-7A made no recommendation the application.

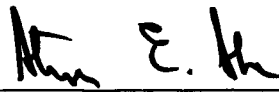
CONCLUSIONS OF LAW

Based on the record the Board concludes that the applicant is seeking a use variance the granting of which, as stated in Finding of Fact No. 10, requires a showing of a hardship upon the owner of the property that stems from the property itself. The Board notes that the property is rectangular in shape. There was no proof that the subject property could not be used for the reason for which it was zoned. It had previously been used as a residence prior to its recent purchase. The Board concludes that there is no hardship in the subject property. While the Board can appreciate the proposed programs for the property and the need for it there are no grounds under the current Zoning Regulations, to grant the requested variance. Accordingly, the application is DENIED.

VOTE: 4-0 (Connie Fortune, Walter B. Lewis, Charles R. Norris, and William F. McIntosh to deny Leonard L. McCants, not having heard the case).

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 2 JUN 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."